IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL 482 OF 2006

Dada Narayan Awhad .... Appellant
Vs.
Kisan Narayan Awhad & Ors. .... Respondents

Mr. S.D. Patil for Appellant
Mr. G.S. Godbole a/w Mr. Satyajeet Mirajkar for
Respondent no. 1.

CORAM : S.J. VAZIFDAR, J.
DATE : 8TH OCTOBER, 2007

P.C.

1) This Second Appeal does not warrant admission.

2) Respondent no. 1 is the appellant's brother. Respondent no. 2 had purchased the suit property from respondent no.1. Respondent no.2 is a stranger to the family.

3) Respondent no. 2 had entered into an agreement for purchase of the suit property with respondent no. 1. In view of the disputes between respondent nos. 1 and 2, respondent no. 2 had filed the suit which was ultimately decreed.

4) It is true that the appellant was not a party to the suit. However, the Courts below have

found that there was collusion between the appellant and his brother respondent no. 1. It has further been held that the appellant had not established in any manner that he had any interest in the property either as a co-owner or as a member of the joint family and that the said property belonged to the joint family.

5) In the circumstances, the main dispute concerns questions of facts. Thus, it will be seen that assuming that the findings of the Courts below regarding the effect of the decree in the other suit and that the decree in the suit filed by the respondent no. 2 does not bind the appellant in any way it would make no difference to the result of this matter on the other questions.

6) The Second Appeal is therefore dismissed.